

U.S. Serial No. 09/665,036

Page 3

REMARKS

The Applicants and their attorneys would like to express their appreciation for the courtesies extended by the Examiner in conducting telephonic interviews after final rejection on May 13 and May 15, 2003. The discussions of these interviews focused on the Applicants' options for proceeding in this application, in view of the outstanding final rejections.

Claims 1-23, 25-35, and 37-39 were pending in the instant application. Claims 5-10, 19-23, 25-35, and 37-39 stand variously rejected under 35 U.S.C. §112, first paragraph, 35 U.S.C. §102, and/or 35 U.S.C. §103. By the foregoing amendment, claim 5, 34, and 35 are being amended. The amendment does not include new matter. Claims 1-4 and 11-18, which were previously withdrawn in response to a restriction requirement, are being canceled, without prejudice or disclaimer. Claims 25-33 are also being canceled, without prejudice or disclaimer, in order to facilitate the continued prosecution of this case. Therefore, claims 5-10, 19-23, 34, 35, and 37-39 will be pending upon entry of the instant amendments.

The accompanying amendment is proper under 37 C.F.R. § 1.116 practice and may be entered by the examiner because it reduces the outstanding issues, thereby placing the application in better condition for allowance or appeal.

Attached hereto, as Appendix A, is a marked-up version of the amendment presented herein, in accordance with the requirements of 37 C.F.R. §1.121. In addition, for the Examiner's convenience, a complete set of claims pending upon entry of the instant amendment is attached as Appendix B.

U.S. Serial No. 09/665,036

Page 4

Should the Examiner wish to discuss the foregoing, or any matter of form or procedure in an effort to advance this application to allowance, she is respectfully invited to contact the undersigned attorney at the indicated telephone number.

Respectfully submitted,

Marshall, Gerstein & Borun

May 16, 2003

By:



Andrew M. Lawrence, Reg. No. 46,130
Attorney for Applicant
6300 Sears Tower
233 S. Wacker Drive
Chicago, Illinois 60606-6357
(312) 474-6300

APPENDIX A

VERSION WITH MARKINGS TO SHOW CHANGES MADE

Please amend claims 5, 34 and 35 as follows:

5. (Thrice Amended) A method for producing a preparation possessing antiviral activity comprising substances obtained from cuticular or epicuticular layers external to an epidermis of a plant or plant part, the method comprising:

a) exposing the plant or plant part to a solvent under conditions sufficient to solubilize materials in the cuticular and epicuticular layers of the plant, while leaving cells and tissues internal to the epidermis substantially unaffected; and

b) obtaining a solution or suspension of plant cuticular and epicuticular materials, thereby producing the antiviral preparation, wherein the plant or plant part is selected from the group consisting of [*Malus*, *Pyrus*, *Citrus*, *Lycopersicon*, *Brassica*, *Cucumis*, *Prunus*, *Persea*, *Vaccinium*, *Arctostaphylos*, *Olea*, *Nicotianum*, *Quercus*, *Eucalyptus*, *Rhododendron*, *Ilex*, *Eriobotrya*, *Salix*, *Copernicia*, *Euphorbia*, *Pedilanthus*, *Syagrus*, *Cocos*, *Attalea*, *Stipa*, *Glyceria*, *Saccharum*, *Myrica*, *Rhus*, *Sapinum*, *Ceroxylon*, *Linum*, *Agave*, *Cannabis*, *Raphia*, *Coccus*, *Ligustrum*, *Fraxinus*, *Benincasa*, *Ricinus*, *Buxus*, *Mesembryanthemum*, *Rubus* and *Melaleuca*] apple, tomato, grape, pear, plum and avocado.

34. (Once Amended) The method of claim 5 wherein the plant or plant part is [*Malus*] apple.

35. (Once Amended) The method of claim 5 wherein the plant or plant part is [*Lycopersicon*] tomato.

U.S. Serial No. 09/665,036
Page 6

APPENDIX B

CLEAN COPY OF ALL PENDING CLAIMS UPON ENTRY OF INSTANT AMENDMENT

5. (Thrice Amended) A method for producing a preparation possessing antiviral activity comprising substances obtained from cuticular or epicuticular layers external to an epidermis of a plant or plant part, the method comprising:

a) exposing the plant or plant part to a solvent under conditions sufficient to solubilize materials in the cuticular and epicuticular layers of the plant, while leaving cells and tissues internal to the epidermis substantially unaffected; and

b) obtaining a solution or suspension of plant cuticular and epicuticular materials, thereby producing the antiviral preparation, wherein the plant or plant part is selected from the group consisting of apple, tomato, grape, pear, plum and avocado.

6. The method of claim 5 wherein the solvent comprises one or more ingredients selected from the group consisting of hexane, chloroform, dichloromethane, heptane, ether, petrolether, t-butyl ether, DMSO, supercritical fluids and carbon dioxide.

7. The method of claim 5 wherein the step of exposing comprises dipping the plant or plant part into the solvent.

8. The method of claim 5 wherein the step of exposing comprises spraying the plant or plant part with the solvent.

9. The method of claim 19 wherein the removal of the solvent is performed by a method selected from the group consisting of aspiration, static evaporation, heating, centrifugal evaporation, rotary evaporation, vortex evaporation, lyophilization, liquid-liquid separation, solid-liquid separation and precipitation.

10. An antiviral preparation prepared by the method of claim 5.

19. The method according to claim 5 further comprising removing the solvent.

20. The method according to claim 19 further comprising redissolving the antiviral preparation in a biologically compatible medium.

21. The method according to claim 5 further comprising clarifying the solution or suspension of plant cuticular and epicuticular materials.

22. The method according to claim 5 further comprising formulating the antiviral preparation into a pharmaceutical composition.

23. The method according to claim 5 further comprising formulating the antiviral preparation into a nutraceutical composition.

34. (Once Amended) The method of claim 5 wherein the plant or plant part is apple.

35. (Once Amended) The method of claim 5 wherein the plant or plant part is tomato.

37. The method of claim 5 wherein the plant or plant part is exposed to a solvent from about three minutes to about five minutes.

38. The method of claim 37 wherein the plant or plant part is exposed to a room temperature solvent.

39. The method of claim 5 wherein the plant or plant part is fruit peel.